IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WA.No. 1589 of 2006

AGAINST THE JUDGEMENTIN WPC.19632/2006 Dated 09/08/2006
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APPELLANT: RESPONDENTS 1 AND 2 IN THE WPC:
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1. THE COMMISSIONER FOR ENTRANCE
EXAMINATION, GOVERNMENT OF KERALA VTH FLOOR,
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM-695 001.

2. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEVELOPMENT (C) DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

BY GOVT PLEADER SRI SANDESH RAJ

RESPONDENT: PETITIONER IN THE WPC:

DEEPU O.,
KUZHIKKATTIL PUTHEN VEEDU, AZHOOR,PATHANAMTHITTA,
REPRESENTED BY HIS GUARDIAN, OMANAKKUTTAN.

BY ADV. SRI.SIBY MATHEW
SRI.A.A.MOHAMMED NAZIR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 01/06/2007, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

Writ Appeal No 1589 of 2006

Dated: 1st June 2007

JUDGMENT

Radhakrishnan, J.

Writ petition was preferred by the respondent herein seeking a writ of mandamus directing the respondents to admit him for the Engineering Course under the quota of physically disabled candidates and for a declaration that a person having 40% disability in any of the eyes is entitled for selection under the quota physically disabled candidate and also for other consequential reliefs.

2. Writ petitioner was a candidate for admission to the Engineering Course. He submitted application claiming special reservation for persons with disabilities under item 18 in the application form. Along with the application he produced disability certificate obtained from the District Medical Board, Pathanamthitta in support of his claim showing that the degree and extent of disability of the petitioner is 40%. Accepting the percentage fixed under the schedule to the Workmen's Compensation Act learned single judge

gave direction to the Commissioner for Entrance Examination to admit the petitioner under the quota fixed for persons with physical disability and to consider the claim of the petitioner for admission to the physically disabled person. Aggrieved by the same State and the Commissioner took up the matter in appeal.

3. Though appeal was admitted no stay was granted and an year has elapsed since the petitioner was admitted. Petitioner is now undergoing his studies in the Engineering College. In such circumstances, we find no reason to interfere with his admission. All the same, we are of the view that learned single judge is not justified in substituting his opinion to that of the expert body since as per the prospectus decision of the expert medical body is final as far as the candidate is concerned. The finding of the learned single judge therefore cannot be treated as a binding precedent. The writ appeal is disposed of with the above observation.

Sd/-
K.S. RADHAKRISHNAN
Judge

Sd/-
ANTONY DOMINIC
Judge

en/ [true copy]